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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT

Docket Number (Optional)

1140-3

REJECTION OVER A PRIOR PAT	ENI	1140-5
refree Application of: Short		
Application No.: 09/663,620		
Filed: September 15, 2000		
For: Combinatorial Screening of Mixed Populations of Organisms		
The owner*, <u>Diversa Corporation</u> , of <u>100</u> disclaims, except as provided below, the terminal part of the state which would extend beyond the expiration date of the full status shortened by any terminal disclaimer, of prior Patent No. <u>5,958,6</u> so granted on the instant application shall be enforceable only commonly owned. This agreement runs with any patent granted its successors or assigns.	tutory term of any patent granted tory term defined in 35 U.S.C. The owner here for and during such period that	on the instant application, 154 and 173, as presently by agrees that any patent it and the prior patent are
In making the above disclaimer, the owner does not disapplication that would extend to the expiration date of the full sprior patent, as presently shortened by any terminal disclaim maintenance fee, is held unenforceable, is found invalid by a whole or terminally disclaimed under 37 CFR 1.321, has all clais in any manner terminated prior to the expiration of its fudisclaimer.	statutory term as defined in 35 er, in the event that it later: e court of competent jurisdiction, ims canceled by a reexamination	U.S.C. 154 and 173 of the xpires for failure to pay a is statutorily disclaimed in certificate, is reissued, or
Check either box 1 or 2 below, if appropriate.		
1. For submissions on behalf of an organization (e.g., corp etc.), the undersigned is empowered to act on behalf of		government agency,
I hereby declare that all statements made herein of my information and belief are believed to be true; and further that the false statements and the like so made are punishable by fine of the United States Code and that such willful false statements measured thereon.	ese statements were made with r imprisonment, or both, under S	the knowledge that willful Section 1001 of Title 18 of
2. The undersigned is an attorney or agent of record.	Carolin Funda	QN 2-10-04
/2004 HVUDNG1 00000031 09663620	Signature	Date
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This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).

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e Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. ERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT

Docket Number (Optional)

1140-3

In re Application of: Short 78666 Short S
7860 ation No.: 09/663,620
Filed: September 15, 2000
For: Combinatorial Screening of Mixed Populations of Organisms

The owner*, Diversa Corporation , of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application. which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 5,939,250 . The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if approp
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1 V	For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency
ــــــ	etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2 The under	rsigned is an atto	orney or agent of record.	(and	a auchsu
/2004 HVUONG1 000000	031 500661 0966	3620	Signature	7 %

Carolyn Erickson Typed or printed name (858) 526-5104 Telephone Number

Terminal disclaimer fee under 37 CFR 1.20(d) included. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

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and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING REJECTION OVER A PENDING SECOND APPLICATION

Docket Number (Optional)

140-3

FEB 1 1 2004 IT

In the Application of: Short
Application No.: 09/663,620
This: September 15, 2000

Combinatorial Screening of Mixed Populations of Organisms

The owner*, <u>Diversa Corporation</u>, of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number <u>09/375.605</u>, filed on <u>August 17, 1999</u>, of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

•	The undersigned is all alterney or agent of record.	Chrolize Euch	2-10-04	
02/17/2004	HVUONG1 00000031 09663620	Signature	Date	
01 FC:2814 55.00 DA 02 FC:2814 55.00 DA		Carolyn Erickson		
03_FC+2814 55.00_DA	, ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	Typed or printed name		
		(858) 526-5	104	
		Telephone Nu	mber	

Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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